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*Memorandum* by City Manager's Office

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Krutko  
Scott P. Johnson

**SUBJECT:** SEE BELOW

**DATE:** November 4, 2005

Approved

Date

Nov. 8, 2005

**COUNCIL DISTRICT:** Citywide

**INFORMATION**

**SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF JULY 1, 2005 THROUGH SEPTEMBER 30, 2005**

**BACKGROUND**

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of July 1, 2005 through September 30, 2005.

**ANALYSIS**

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management

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for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

### **ACTIONS TAKEN BY THE DIRECTOR OF HOUSING**

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of July 1, 2005 through September 30, 2005:

#### **Housing Trust Fund Grants:**

None this period.

#### **Housing Rehabilitation and Improvement Loans and Grants Approved:**

<b><u>ACTIVITY</u></b>	<b><u>NUMBER</u></b>	<b><u>AMOUNT</u></b>
REHABILITATION LOANS	8	\$ 120,000
REHABILITATION GRANTS	77	\$ 862,501
PAINT GRANTS	0	\$ 0
<b>TOTAL:</b>	<b>85</b>	<b>\$ 982,501</b>

#### **Modifications to Council-Approved Loan Terms & Conditions:**

Housing for Independent People, Inc. - District: 7 – SNI: N/A

Housing for Independent People, Inc. (HIP) owns and operates homes for individuals with special needs, some of which are financed by the City of San José. After filing for bankruptcy protection in 1996, HIP successfully reorganized and returned to self management and resumed all property management responsibilities in late 2003.

Cash flow projections for the next five years indicate that HIP will not be able to pay for necessary maintenance repairs. HIP has therefore requested that the City amend the repayment

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terms of the Consolidated Note to enable the cash flow to meet increasing costs of maintenance repairs. On September 29, 2005, the Director of Housing: (i) authorized City Staff to change the terms of the Consolidated Note from monthly scheduled payments to annual residual receipts with a split of 60% payable to the City and 40% payable to the Borrower of Net Cash Flow, effective November 1, 2005, beginning with the September 1, 2007 payment; and (ii) authorized an amendment to eliminate accrual of interest effective November 1, 2005.

All other terms and conditions shall remain unchanged.

San Carlos Willard Associates, L. P. – District: 6 - SNI: Burbank/Del Monte

On June 25, 2002, the City Council approved business terms for an acquisition and predevelopment loan of up to \$4,113,600 and a conditional grant of up to \$4,775,000 to CORE Development, Inc. and ROEM Development Corporation for the development of a 100-unit senior rental housing project and 30 units of affordable, for-sale townhomes. On July 18, 2005, the Director of Housing granted an extension of the Maturity Date of the Acquisition and Predevelopment Note from July 31, 2005 to January 31, 2006. The extension will give the developer more time to negotiate next steps regarding relocation of the current commercial tenant.

All other terms and conditions shall remain unchanged.

Vermont Transitional Housing – District: 6 – SNI: N/A

On September 11, 2001, the City Council approved a \$651,300 loan and a \$308,700 grant to the nonprofit organization Combined Addicts and Professionals Services, Inc. (CAPS) for the acquisition of two adjacent properties to provide housing and treatment services to 28 adults recovering from substance abuse or living with HIV/AIDS. The outstanding balance on the loan, as of August 31, 2005, was \$597,315.30 and the Note calls for semi-annual payments of \$23,315.40 on April 1<sup>st</sup> and October 1<sup>st</sup> of each year.

On September 7, 2005, the Director of Housing approved conversion of the semi-annual payments to monthly payments starting with the April 1, 2006 payment, and extension of the maturity date by six months from October 1, 2031 to April 1, 2032.

All other terms and conditions shall remain unchanged.

Housing Rehabilitation Loan:

In 1995, the Housing Department made a rehabilitation loan for improvements to a single-family rental property. A 30-year affordability restriction was recorded on title, restricting the occupancy of the property to low-income tenants for the reason that the loan exceeded 25% of the median-priced single-family home in San José. The owner of the property recently died, and the heir wishes to dispose of the property.

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On September 29, 2005, the Director of Housing approved the conversion of the affordability restriction from rental restriction without an equity-share buy-out provision to one with an equity-share buy-out provision.

**Modification to Homebuyer Loan Documents:**

California Housing Finance Agency (CalHFA) bond counsel advised City staff that as a requirement to receive CalHFA approval as a downpayment assistance program participant through its Affordable Housing Partner's Program (AHPP), the City's loan documents must limit the amount of contingent deferred interest payments to an amount equal to an annual fixed interest rate (currently 8%).

The Director of Housing has approved the modification of the City's standard equity share loan documents to be consistent with CalHFA's guidelines.

**Loans/Grants Terms and Conditions:**

Corde Terra Family Housing Project – District: 7 - SNI: N/A

On April 13, 2004, the City Council approved funding commitments in the amount of \$8,378,250 to the Housing Authority of the County of Santa Clara (HACSC) for the development of a 130-unit multifamily rental project, and a loan in the amount of \$10,856,800 to ROEM Development Corporation for the development of a 170-unit multifamily rental project. On August 23, 2005, the City Council approved a change in the authorized borrower from the Housing Authority of the County of Santa Clara to ROEM Development Corporation for the \$8,378,250 loan designated for the 130-unit Corde Terra Family Apartments project (formerly known as Fairgrounds Family Housing), resulting in a combined project of 300 units and a combined loan in an amount of up to \$21,187,440.

On August 29, 2005, the Director of Housing approved the following: (i) specific business terms of the construction and permanent loan to ROEM Development Corporation as evidenced by the term sheets dated August 23, 2005; (ii) an increase of the City loan amount at permanent conversion by \$1,952,390 from \$19,235,050 to \$21,187,440, to capitalize the City's interest on the loan accrued during the construction period; (iii) reduction of the City's share of the residual receipts to 35% from 50% reflecting terms in the negotiated land lease agreement; (iv) change in income targeting to allow the addition of one unrestricted manager's unit, removing one unit targeted to residents at or below 45% of Area Median Income.

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<b>Corde Terra Loan Terms:</b>	<b>Construction Loan</b>	<b>Permanent Loan</b>
Loan Amount:	\$19,235,050	\$21,187,440
Interest Rate:	4.00% Simple	4.00% Simple
Loan Term:	36 Months	486 Months
Repayment:	P&I at Maturity	Residual Receipts 50% County, 35% City, and 15% Borrower.
Total Affordable Units:	137 @ 45% AMI, 136 @ 50% AMI, 25 @ 60% AMI, and 2 Unrestricted Managers' Units	137 @ 45% AMI, 136 @ 50% AMI, 25 @ 60% AMI, and 2 Unrestricted Managers' Units
Affordability Term:	55 Years	55 Years

**PREDEVELOPMENT LOANS:**

None this period.

**TEFRA HEARINGS CONDUCTED BY THE DIRECTOR OF FINANCE:****Tax-exempt Bond Issuance:**

The City of San José caused to be published on July 1, 2005 in the *San Jose Post Record*, a newspaper of general circulation in the City, a notice of a public hearing to be held on July 18, 2005, at 4:00 p.m. concerning the issuance of the Tax Exempt Bonds, in accordance with the requirements of Section 147(f) of the Code.

The Director of Finance held a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing on July 18, 2005 with respect to the City's intent to issue tax-exempt multifamily housing revenue bonds for the construction of 117 and 101 units, respectively, for the Paseo Senter I and Paseo Senter II projects, in the amounts of \$32,000,000 and \$28,000,000. The hearing also provided for the inducement declaration for the purpose of allowing the expenditures incurred prior to the date of bond issuance to be reimbursed with tax-exempt bond proceeds for the City's tax-exempt multifamily housing revenue bonds.

<b>Project Name</b>	<b>Units</b>	<b>Location</b>	<b>Bond Amount</b>	<b>Mayor's Certificate No.</b>
Paseo Senter Family Housing I	117	1970, 1896 & 1900 Senter Rd.	\$32,000,000	No. 2005-3 Adopted
Paseo Senter Family Housing II	101	1970, 1896 & 1900 Senter Rd.	\$28,000,000	No. 2005-4 Adopted

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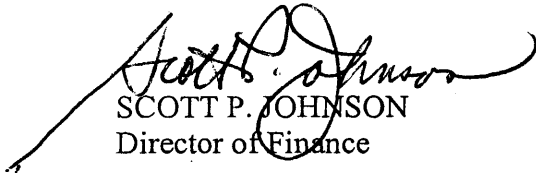
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**COORDINATION:**

Preparation of this report has been coordinated with the City Attorney's Office.



SCOTT P. JOHNSON  
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Director of Housing